

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. AC-94-23
)	
GEORGE SPOTTSWOOD BUTTS, JR.)	OAH No. N-9508048
Original Licentiate No.)	
CPA 33235)	
)	
)	
Respondent.)	
)	

PROPOSED DECISION

On May 13, 1996, in Chico, California, Muriel Evens, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Joel Primes, Supervising Deputy Attorney General, represented the complainant.

Respondent was present and represented himself.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

On December 4, 1981, the Board of Accountancy issued certificate number 33235 (Certified Public Accountant) to respondent George Spottswood Butts, Jr. That certificate is in full force and effect and expires subject to renewal October 1, 1996.

II

From March 1992 until May 17, 1993, Far West Rice, Inc. employed respondent as its controller. Respondent had full

responsibility for the business accounting, including monitoring payables and receivables, writing checks himself, providing reports to management, and generally controlling financial accounting.

Far West terminated respondent on May 17, 1993, after discovering discrepancies. The termination followed a preliminary investigation of irregularities. In June 1993, an investigation was completed by an accounting firm. That investigation and another by the Board's investigator determined that respondent had written payroll checks to himself for approximately \$15,300 in excess of his salary. In addition, the accounting firm found in excess of \$5,800 in petty cash was received by respondent with no record of deposit to Far West Rice, as well as questionable expense items submitted and apparently not authorized.

On May 17, 1993, respondent was confronted regarding shortages in the employer's accounts. Respondent presented with an agreement to repay \$19,763.90, what the employer thought at the time to be the amount taken. Respondent signed the agreement, which set forth a repayment schedule of \$500 per month. Respondent made the first three payments, but defaulted on that due September 1, 1993. Through the date of the hearing, he has repaid a total of \$1,500.

III

Respondent did not testify, although he was told that it was usual for respondents to testify in their own behalf. Because respondent did not testify and did not call witnesses on his behalf, there was little mitigation evidence and no evidence to contradict the taking of money from his employer without authorization. There was no evidence of remorse.

IV

Respondent's actions in taking money from his employer without its knowledge or consent evidences respondent's substantial unfitness to perform the duties of a certified public accountant consistent with the public safety and welfare.

V

The Board provided a certification of costs of \$6,209.96.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent's license for violation of Business and Professions Code sections 5100(c), (h) and (j) and Title 16, California Code of Regulations, section 99(a) and (c) was established by Findings II and IV.

II

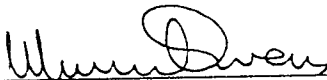
Complainant established costs of \$6,209.96.

ORDER

Respondent's license as a certified public accountant is revoked.

Respondent is ordered to pay to the Board, within 90 days of the effective date of this decision, costs of \$6,209.96.

Dated: June 10, 1996



MURIEL EVENS
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

GEORGE SPOTTSWOOD BUTTS, JR.
Original Licentiate No.
CPA 33235

Respondent.

No. AC-94-23

OAH No. N-9508048

DECISION

The attached Proposed Decision of the Administrative Law
Judge is hereby adopted by the Board of Accountancy as its Decision in
the above-entitled matter.

This Decision shall become effective on September 6, 1996.

IT IS SO ORDERED August 6, 1996.

BOARD OF ACCOUNTANCY



President

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of the State of California
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6 Attorneys for Complainant

7
8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) No. AC-94-23
12 Against:)
13 GEORGE SPOTTSWOOD BUTTS, JR.) ACCUSATION
P. O. Box 9308)
14 Chico, California 95927)
Original Licentiate)
15 No. CPA 33235)
16 Respondent.)

17
18 Carol Sigmann, ("Complainant") alleges as follows:

19 1. Complainant is the Executive Officer of the Board
20 of Accountancy, Department of Consumer Affairs, State of
21 California ("Board") and files this Accusation in her official
22 capacity as such and not otherwise.

23 2. George Spottswood Butts, Jr. ("Respondent") was
24 issued original licentiate number CPA 33235 by the Board on
25 December 4, 1981, to practice accountancy under the laws of the
26 State of California. Said license was in full force and effect
27 until October 1, 1994.

28 / / /

1 3. Business and Professions Code ("Code") Section
2 5100 and California Code of Regulations ("Regulations") Title 16,
3 Article 13, Section 99 provide that the Board may take
4 disciplinary action against a licensee in the manner set forth in
5 said sections.

6 4. Code Section 118(b) provides that the suspensions,
7 expiration, or forfeiture by operation of law of a license issued
8 by a board in the department, or its suspension, forfeiture, or
9 cancellation by order of the Board or by order of a court of law,
10 or its surrender without the written consent of the Board, shall
11 not, during any period in which it may be renewed, restored,
12 reissued, or reinstated, deprive the Board of its authority to
13 institute or continue a disciplinary proceeding against the
14 licensee upon any ground provided by law or to enter an order
15 suspending or revoking the license or otherwise take disciplinary
16 action against the licensee on any such ground.

17 5. Code Section 5100 provides, in pertinent part,
18 that after notice and hearing the Board may revoke, suspend or
19 refuse to renew any permit or certificate granted under Article 4
20 (commencing with Section 5070) and Article 5 (commencing with
21 Section 5080), or may censure the holder of that permit or
22 certificate for unprofessional conduct.

23 6. Code Section 5100(c) provides that unprofessional
24 conduct includes, but is not limited to, dishonesty, fraud, or
25 gross negligence in the practice of public accountancy or in the
26 performance of the bookkeeping operations described in Section
27 5052.

28 / / /

1 7. Code Section 5100(h) provides that unprofessional
2 conduct includes, but is not limited to, fiscal dishonesty or
3 breach of fiduciary responsibility of any kind.

4 8. Code Section 5100(j) provides that unprofessional
5 conduct includes, but is not limited to, embezzlement, theft,
6 misappropriation of funds or property, or obtaining money,
7 property, or other valuable consideration by fraudulent means or
8 false pretenses.

9 9. Regulations Title 16, Article 13, Sections 99(a) &
10 (b) provide that for the purposes of denial, suspension, or
11 revocation of a certificate or permit pursuant to Division 1.5
12 (commencing with Section 475) of the Business and Professions
13 Code, a crime or act shall be considered to be substantially
14 related to the qualifications, functions or duties of a certified
15 public accountant or public accountant if to a substantial degree
16 it evidences present or potential unfitness of a certified public
17 accountant or public accountant to perform the functions
18 authorized by his certificate or permit in a manner consistent
19 with the public health, safety, or welfare. Such crimes or acts
20 shall include but not be limited to those involving the
21 following:

22 (a) fiscal dishonesty or breach of fiduciary
23 responsibility of any kind;

24 (c) Dishonesty, fraud, or gross negligence in the
25 practice of public accounting or in the performance of the
26 bookkeeping operations described in Section 5052 of the Code.

27 10. Respondent is subject to disciplinary action
28 pursuant to Code Section 5100 in that he engaged in

1 unprofessional conduct as defined in Code Section 5100(c), (h) &
2 (j). Respondent is also subject to disciplinary action pursuant
3 to Regulations Title 16, Article 13, Section 99 in that he
4 engaged in acts which evidence a present or potential unfitness
5 to perform the functions of a certified public accountant as
6 defined in Regulations Title 16, Article 13, Section 99(a) & (c).
7 His conduct was as follows:

8 During March of 1992, respondent, a certified public
9 accountant, was hired as the controller for Far West Rice
10 ("FWR"). This position gave him complete control over the
11 accounting department. Some of his responsibilities included
12 receiving cash sales from customers, processing payroll for all
13 of the FWR employees, making all bank deposits, updating all of
14 the accounting records, and completing the monthly financial
15 reports. From the date of hire through May 17, 1993 (the date of
16 termination), respondent embezzled money from FWR, the exact
17 amount of which is believed to be \$28,522. He accomplished this
18 by writing checks to himself, issuing duplicate payroll checks to
19 himself, and stealing cash from daily receipts. He was able to
20 get the checks signed by presenting them in large batches to the
21 president of FWR when the president was busy. The respondent, a
22 certified public accountant, was trusted to perform his job
23 honestly and thus the checks were often signed without much
24 analysis.

25 WHEREFORE, Complainant prays that the Board hold a
26 hearing on the matters alleged herein and following said hearing
27 issue a decision and order:

28 / / /

1. Revoking or suspending Original Licentiate Number
CPA 33235 issued to George Spottswood Butts, Jr.;

2. Taking such other and further action as may be deemed proper and appropriate.

3. Ordering George Spottswood Butts, Jr., to pay the Board its costs of investigation and enforcement of the case according to proof at the hearing pursuant to Business and Professions Code section 125.3.

Dated: April 11, 1995

Carol Gyneman

CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs

Complainant